



**48 CFR Parts 532 and 552**

**[GSAR Case 2022-G513; Docket No. GSA-GSAR-2023-0008;  
Sequence No. 1]**

**RIN 3090-AK55**

**General Services Administration Acquisition Regulation;  
Updating Payments Clause**

**AGENCY:** Office of Acquisition Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to remove clause 552.232-1 *Payments*. This clause requires the Government to pay a contractor without submission of an invoice or voucher for non-commercial fixed price contracts for supplies or services.

**DATES:** Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before **[Insert date 60 days after date of publication in the *FEDERAL REGISTER*]** to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to GSAR Case 2022-G513 to: <https://www.regulations.gov> via the Federal eRulemaking portal by searching for "GSAR Case 2022-G513". Select the link "Comment Now" that corresponds with GSAR Case 2022-G513. Follow the instructions provided at the

"Comment Now" screen. Please include your name, company name (if any), and "GSAR Case 2022-G513" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

*Instructions:* Please submit comments only and cite GSAR Case 2022-G513, in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Ms. Taylor McDaniels at 817-253-7858 or [gsarpolicy@gsa.gov](mailto:gsarpolicy@gsa.gov). For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or [gsaregsec@gsa.gov](mailto:gsaregsec@gsa.gov). Please cite GSAR Case 2022-G513.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The General Services Administration (GSA) conducts routine reviews of its acquisition regulations to identify outdated content and to ensure there is no unnecessary duplication of or conflict with the Federal Acquisition

Regulation (FAR), pursuant to FAR 1.304. Through one of these reviews in Fiscal Year (FY) 2022, GSA identified that General Services Administration Acquisition Regulation (GSAR) clause 552.232-1 *Payments* conflicts with FAR clause 52.232-1 *Payments* and should be removed. As this GSAR clause is over 10 years old, GSA does not have any historical information that explains why the GSAR clause was initially created. This rule seeks to rectify the issue.

## **II. Discussion and Analysis**

GSA is proposing to amend the GSAR to remove GSAR Clause 552.232-1 *Payments* and any corresponding references to the clause.

First, this rule proposes to remove and reserve the GSAR clause 552.232-1 *Payments* because GSA has determined the existing FAR clause 52.232-1 *Payments* is sufficient, and it is no longer in the best interests of GSA to deviate from the FAR. The GSAR clause requires, in certain transactions, the Government to pay a contractor without submission of a proper invoice for non-commercial fixed price contracts for supplies or services; whereas the FAR currently requires that the Government pay a contractor only after receipt of the contractor's proper invoice or voucher. GSA has found that the GSAR clause is no longer necessary and is unaware of any situation in which this clause is used for any payments being processed.

Next, this rule proposes to remove the prescription for GSAR clause 552.232-1 at GSAR 532.111 and make conforming changes to subsequent text to improve consistency and readability of the GSAR.

Finally, this rule proposes to revise the prescription for GSAR clause 552.323-5: "As prescribed in 532.111(b), insert the following clause." Because of the change discussed above, there is no part (b) of GSAR 532.111, so (b) should be removed from this statement.

### **III. Expected Impact of the Rule**

This rule proposes to remove one conflicting GSAR clause regarding payments for non-commercial fixed price contracts for supplies or services. GSA believes the exception to invoicing in the GSAR clause is not currently followed, and applicable contractors are already following the invoice requirements of the FAR clause. However, we have conducted the analysis below demonstrating that the expected impact of this rule is not significant.

With this change, contractors with non-commercial, fixed-price, contracts for supplies or services will now have to submit proper invoices in order to receive payments in accordance with FAR 52.232-1 *Payments*. Information generated from the System for Award Management (SAM.gov) for FY 2022 reflects approximately 142,120 GSA contracts were awarded for non-commercial fixed price contracts for

supplies or services across approximately 735 separate contractors.

Consistent with the methodology and analysis for the FAR clause information collection<sup>1</sup>, the affected contracts on average are estimated to have 6 invoices per contract per year, for a total of 852,720 total responses. Each response is estimated to require 0.25 hours, for a total of 213,180 hours of total burden. Applying a GS-12 pay rate, the total cost is estimated to be \$12,517,930<sup>2</sup>, or approximately \$17,031 per contractor which is not significant.

#### **IV. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OIRA has determined that this rule is not a significant regulatory action and, therefore,

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<sup>1</sup>Office of Management and Budget Control Number 9000-0073, *Certain Federal Acquisition Regulation Part 32 Requirements*.

<sup>2</sup>The hourly rate for GS-12 is \$58.72 (\$43.10 as a GS-12/step 5 salary OPM 2023 pay scale Rest of US, with a 36.25% fringe factor pursuant to OMB memorandum M-08-13).

was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

## **V. Regulatory Flexibility Act**

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act,<sup>5</sup> U.S.C. 601, et seq., because this rule merely reverts back to the existing FAR clause for payments. However, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603. The analysis is summarized as follows:

The objective of the rule is to amend the GSAR to revise sections of GSAR Part 532, Contract Financing, and Part 552, Solicitation Provisions and Contract Clauses, to remove an unnecessary payments clause and any corresponding references to the clause.

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

The rule applies to large and small business entities, which are awarded contracts that are fixed price, non-commercial, supplies or services. Information generated from the System for Award Management (SAM.gov), formerly known as the Federal Procurement Data System (FPDS), for Fiscal Year (FY) 2022 has been used as the basis for estimating the number of contractors that have been awarded such contracts. A total of 17,520 government-wide contracts were awarded in the targeted PSCs for FY 2022. Of these contract awards, only 14 percent were small business entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small business entities.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives to this rule which would accomplish the stated objectives. This rule does not initiate or impose any new administrative or performance requirements on small business contractors because the policies are already being followed.

The Regulatory Secretariat Division will be submitting a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (GSAR Case 2022-G513) in correspondence.

#### **VI. Paperwork Reduction Act**

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the GSAR do not impose additional information collection requirements to the paperwork burden previously approved for FAR clause 52.232-1 *Payments*, under the Office of Management and Budget Control Number 9000-0073, Certain Federal Acquisition Regulation Part 32 Requirements.

#### **List of Subjects in 48 CFR Parts 532 and 552.**

Government procurement.

Jeffrey A. Koses  
Senior Procurement Executive,  
Office of Acquisition Policy,  
Office of Government-wide Policy,  
General Services Administration.





Therefore, GSA proposes to amend 48 CFR parts 532 and 552 as set forth below:

1. The authority citation for 48 CFR parts 532 and 552 continues to read as follows:

**AUTHORITY:** 40 U.S.C. 121(c).

**PART 532 – CONTRACT FINANCING**

2. Revise section 532.111 to read as follows:

**532.111 Contract Clauses for non-commercial purchases.**

*Construction contracts.* Insert the clause at 552.232-5, Payments under Fixed-Price Construction Contracts, in solicitations and contracts when a fixed-price construction contract is contemplated.

**PART 552 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**552.232-1 [Removed and Reserved]**

3. Remove and reserve section 552.232-1.

**552.232-5 [Amended]**

4. Amend section 552.232-5 by removing from the introductory text “552.111(b)” and adding “532.111” in its place.

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